IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.Rev.Pet.No. 778 of 1999()

CRA.299/1997 of I ADDL. SESSIONS COURT, THRISSUR
CC.333/1996 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHAVAKKAD

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REVN. PETITIONER:

KIRAN, S/O. MULAKKAL VEETTIL JANARDHANAN,
ENGANDIYOOR VILLAGE, DESOM,
CHAVAKKAD TALUK.

BY ADV. SRI.P.VIJAYA BHANU
SRI.S.R.MANOJ

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI C.M.KAMMAPPU.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 24/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NOS. 3494 & 3888/1999 IN CRL.R.P. 778/1999

DISMISSED.

24-5-2007. SD/- K.R.UDAYABHNAU, JUDGE.

//TRUE COPY//

K.R. UDAYABHANU, J.

CRL.R.P. NO. 778 of 1999

Dated this the 24th day of May, 2007

ORDER

The revision petitioner stands convicted for the offence under section 55(a) of Abkari (Amendment) Act 1955 and sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.25,000/- and in default, to undergo simple imprisonment for six months.

2. The prosecution case is that on 25-7-1995 at 5 p.m the accused was apprehended from the public road with three packets of illicit arrack which is found to be 300 ml. On chemical examination of the sample, the same was found to contain 31.63 percentage by volume of ethyl alcohol.

3. The prosecution evidence consisted of the testimony of PWs 1 to 3 and Exts.P1 to P3 and M.Os 1 and 2. PW-3, the independent witness did not support the prosecution. Pws 1 and 2 excise officials who detected the offence apprehended the accused.

4. I find that the evidence of PWs 1 and 2 corroborate with each other and no material contradictions have been brought out.

It is only certain inconsequential discrepancies that have pointed out by the counsel representing the revision petitioner.

5. In the circumstances, I find no reason to deviate from the findings of the courts below. The conviction is affirmed. So far as the sentence is concerned, the counsel pleaded for leniency pointing out that the incident has taken pace more than 10 years ago and that the accused/revision petitioner was facing the proceedings so long. It is also pointed out that at the time when the offence was committed, the revision petitioner was aged only 20 years. Right now, he is having a family, children etc.

In the circumstances, the sentences is modified to imprisonment already undergone and to pay a fine of Rs.25,000/- and in default of payment of fine to undergo simple imprisonment for 6 months. It is represented that the revision petitioner has deposited the entire fine amount.

The Crl. R.P is disposed of accordingly.

K.R.UDAYABHANU,JUDGE.

Kvm/-

K.R.UDAYABHANU, J.

CRL.R.P.NO.778/1999

ORDER

24-5-2005